

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201403739	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/17/2014 9:30 AM	Location of Incident: § 87(2)(b), en route to 314 West 40th Street	Precinct: 33	18 Mo. SOL 10/17/2015	EO SOL 10/17/2015	
Date/Time CV Reported Thu, 04/17/2014 5:33 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/17/2014 5:33 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Monserra Badillo	05090	900766	WARRSEC
2. SGT Martin McBride	03081	890477	WARRSEC
3. POM Michael Leclair	23485	943471	WARRSEC
4. Officers			WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Billy Acosta	00031	913910	WARRSEC
2. DT3 Jack Polimeni	00642	919573	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Martin McBride	Abuse: Sgt. Martin McBride supervised the entry and search of § 87(2)(b) in Manhattan.	
B.DT2 Monserra Badillo	Discourtesy: Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo spoke rudely to § 87(2)(b)	
C.DT2 Monserra Badillo	Abuse: Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo threatened § 87(2)(b) with the use of force.	
D.DT2 Monserra Badillo	Force: Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo used a chokehold against § 87(2)(b)	
E. Officers	Force: Inside § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)	
F.POM Michael Leclair	Force: Inside § 87(2)(b) in Manhattan, PO Michael Leclair used physical force against § 87(2)(b)	
G.DT2 Monserra Badillo	Discourtesy: En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo spoke rudely to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.DT2 Monserra Badillo	Abuse: En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo threatened § 87(2)(b) with the use of force.	
I.DT2 Monserra Badillo	Force: En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo used physical force against § 87(2)(b)	
J.DT2 Monserra Badillo	Abuse: At 314 West 40th Street in Manhattan, Det. Monserra Badillo dissuaded § 87(2)(b) from receiving medical treatment.	

Case Summary

On April 17, 2014, § 87(2)(b) filed this complaint via the Call Processing System, on the behalf of his girlfriend, § 87(2)(b) and § 87(2)(b)'s son, § 87(2)(b).

On April 17, 2014, at around 9:30 a.m., Sgt. Martin McBride, Det. Monserra Badillo, PO Michael LeClair, Det. Billy Acosta, and Det. Jack Polimeni, all of Manhattan Warrant Section, arrived at § 87(2)(b) to execute an arrest warrant for § 87(2)(b). The following allegations resulted from the incident:

Allegation A: Abuse of Authority – Sgt. Martin McBride supervised the entry and search of

§ 87(2)(b) in Manhattan.

§ 87(2)(g)

Allegation B: Discourtesy – Inside § 87(2)(b) in Manhattan, Det.

Monserra Badillo spoke rudely to § 87(2)(b)

§ 87(2)(g)

Allegation C: Abuse of Authority – Inside § 87(2)(b) in Manhattan, Det.

Monserra Badillo threatened § 87(2)(b) with the use of force.

Allegation D: Force – Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo used a chokehold against § 87(2)(b)

§ 87(2)(g)

Allegation E: Force - Inside § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)

Allegation F: Force – Inside § 87(2)(b) in Manhattan, PO Michael LeClair used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G: Discourtesy – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo spoke rudely to § 87(2)(b)

Allegation H: Abuse of Authority – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

Allegation I: Force – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation J: Abuse of Authority – At 314 West 40th Street in Manhattan, Det. Monserra Badillo dissuaded § 87(2)(b) from receiving medical treatment.

§ 87(2)(g)

Mediation was not offered to § 87(2)(b) due to his arrest and his claims of injury from the incident.

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) at the time of the incident. He is a black man who is 5'8" tall, weighs 170 pounds, and has salt and pepper hair and brown eyes.
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on April 21, 2014 (enc. B-3 – B-6). § 87(2)(g)

On April 17, 2014, at around 9:30 a.m., § 87(2)(b) was inside the § 87(2)(b) in Manhattan. He lives in the § 87(2)(b) and is the superintendent of the building. The § 87(2)(b) consists of common area with doors leading to different utility rooms, a residential apartment, and to the outside. § 87(2)(b) heard a banging on the § 87(2)(b), and someone yell “police!” § 87(2)(b) believed the persons outside his door to be intruders and so he did not open the door, and stated through the door that he would not do so. The person left and twenty minutes later, § 87(2)(b) again heard banging at the § 87(2)(b), but it sounded as if the intruders were trying to break down the door. The entrance door was never broken down, and the banging stopped. § 87(2)(b) proceeded out of his residential apartment and into the boiler room. All of a sudden Sgt. Martin McBride, identified via the investigation, entered the boiler room and told § 87(2)(b) “you could’ve gotten shot!” § 87(2)(b) put his hands up and followed Sgt. McBride into the residential apartment. The officers had apparently breached the apartment by removing a window.

§ 87(2)(b) went inside the living room with § 87(2)(b) and § 87(2)(b) s second son, § 87(2)(b) § 87(2)(b) already knew the officers were looking for § 87(2)(b) because he was aware that § 87(2)(b) had violated his parole. There were about four to five officers, all of whom were male and wearing plain clothes. Only Det. Monserra Badillo, identified via the investigation had his gun out of its holster, but § 87(2)(b) did not remember him pointing it at anyone. The officers, in trying to find § 87(2)(b) had broken the bedroom door and the tool-room door. Inside the bedroom, Det. Badillo went to the closet where § 87(2)(b) had been hiding, grabbed § 87(2)(b) by the arm and pulled him onto the floor. None of the officers were saying anything or issuing any commands. § 87(2)(b) was also not saying anything. Det. Badillo was on § 87(2)(b) s right side, the side closest to § 87(2)(b) § 87(2)(b) observed Det. Badillo handcuff § 87(2)(b) and then place his knees on § 87(2)(b) s back, and punch § 87(2)(b) s right rib area multiple times. PO Michael LeClair, identified via the investigation, was also dealing with § 87(2)(b) but because he was on the left side, § 87(2)(b) could

not see much of his actions. Det. Badillo and PO LeClair pulled § 87(2)(b) up, and the latter walked out of the apartment on his own under officer escort.

While Det. Badillo and PO LeClair had been handcuffing § 87(2)(b) inside the bedroom, § 87(2)(b) and § 87(2)(b) were all watching and trying to videotape the incident. § 87(2)(b) was crying for the officers not to hurt her son. She approached the bedroom door to try and record the incident but Sgt. McBride immediately blocked her path and told her not to go into the bedroom. § 87(2)(b) was able to record the entire incident, and § 87(2)(b) was able to record part of it. § 87(2)(b) and § 87(2)(b) each repeatedly asked officers if they had a warrant, and although the officers replied affirmatively, they never displayed one. § 87(2)(b) and § 87(2)(b) remained inside the apartment when § 87(2)(b) was escorted outside. Although he did not see what happened outside, § 87(2)(b) stated that an unidentified neighbor later informed him that the officers had beaten § 87(2)(b) before placing him inside the police vehicle.

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) at the time of the incident. He is a black man who is 6' tall, weighs 180 pounds, and has black hair and brown eyes.
- § 87(2)(b) is § 87(2)(b)'s stepson.

Statements to Medical Personnel

On § 87(2)(b), Emergency Medical Technician examined § 87(2)(b). The latter's main complaint was his "body pain." (enc. MR-1)

Arrest Photograph

§ 87(2)(b)'s arrest photo does not depict any visible injuries to his face or head (enc. C-4).

CCRB Statement

§ 87(2)(b) was interviewed at § 87(2)(b) on May 9, 2014 (enc. C-1 – C-3).

On April 17, 2014, at around 9:30 a.m., § 87(2)(b) was sleeping in his bedroom in the § 87(2)(b) in Manhattan, when he was awoken by banging noise. He was still under his covers when all of a sudden five plainclothes officers came into his room. § 87(2)(b) could hear his mother yelling "where's the warrant, where's the warrant." Det. Badillo grabbed § 87(2)(b)'s wrists and pulled him onto the floor, onto which § 87(2)(b) fell face forward. Det. Badillo was saying "you fucking bastard, I should kill your fucking ass."

The minute Det. Badillo pulled § 87(2)(b) onto the floor, the rest of the officers all got on top of § 87(2)(b) and started beating him. § 87(2)(b) felt officers hit him in the ribs and legs. Meanwhile, Det. Badillo was choking him, restricting his breathing for approximately one minute. § 87(2)(b) knew that it was Det. Badillo who choked him because later on Det. Badillo had said "I should've choked you longer." § 87(2)(b) kept complaining "I can't breathe, I can't breathe," to which officers stated "shut the fuck up." While Det. Badillo was choking § 87(2)(b) an officer pulled § 87(2)(b)'s hand behind his back for handcuffing. § 87(2)(b) did not resist handcuffing and had not moved his body in any manner prior to doing so. He did not know which officer ultimately handcuffed him. § 87(2)(b)'s feet were also shackled. § 87(2)(b) sustained an open wound to his foot, and a little bleeding to one of his eyebrows as a result of the force used against him.

Two officers § 87(2)(b) did not know which ones) picked § 87(2)(b) up off the floor and escorted him outside where two unmarked vans were parked. When Det. Badillo placed § 87(2)(b) into the back row, § 87(2)(b) asked why he was being arrested, to which Det. Badillo responded "shut the fuck up, I should've fucking killed you." That was when Det. Badillo then punched § 87(2)(b) in the neck and sat in the first passenger row of the van.

§ 87(2)(b) was transported to the parole office at West 40th Street in Manhattan where after he was processed, an ambulance came with Emergency Medical Technicians (EMTs) who wrapped his foot injury and cleaned up his eyebrow injury. Det. Badillo had continually said that if § 87(2)(b) were to go to the hospital, the entire process would take much longer. § 87(2)(b) was scared to go to the hospital, especially since Det. Badillo come off as threatening, so § 87(2)(b) refused medical attention.

Witness: § 87(2)(b)

- § 87(2)(b) is § 87(2)(b)'s mom, and § 87(2)(b)'s girlfriend. The investigation did not obtain her pedigree information.

CCRB Statement

§ 87(2)(b) provided a phone statement on June 23, 2014 (enc. C-5), which is summarized below. She refused to provide an in-person statement.

On April 17, 2014, at around 9:30 a.m., § 87(2)(b) was in her bedroom when she heard a banging at the apartment door. She got up to see what the noise was about, and observed that officers had broken down the door, and had come in through the window. § 87(2)(b) was already interacting with the officers.

The officers did not say much to § 87(2)(b) besides telling her and her son, § 87(2)(b) to step back. § 87(2)(b) asked what was going on, and requested to see a warrant. The officers did not heed her request and proceeded to search throughout the basement and apartment. No officer had their gun out, but when they got to the bedroom in which § 87(2)(b) was sleeping, an officer put his hand on his gun before kicking down the door. § 87(2)(b) and § 87(2)(b) were right behind the officers when they kicked down the door, and observed § 87(2)(b) sleeping in his bed.

Det. Badillo, identified via the investigation, pulled § 87(2)(b) from his bed and onto the floor. One officer bent § 87(2)(b)'s arms above his head. Another officer grabbed the back of § 87(2)(b)'s neck with one hand. A third officer punched § 87(2)(b) on the sides of his body. § 87(2)(b) was face down on the floor and was handcuffed. He was not doing anything and did not say anything. § 87(2)(b) was yelling and was very upset with the officers for being so aggressive with her son. Sgt. McBride, also identified via the investigation, was purposely blocking her and § 87(2)(b)'s view of the struggle. However, § 87(2)(b) had a direct line of sight to the struggle and was able to film the incident.

The officers picked up § 87(2)(b) and pushed him towards the door and outside. Once § 87(2)(b) was in the patrol vehicle, § 87(2)(b) followed it down the block, and saw that inside the van, officers were punching § 87(2)(b). She recorded the interaction however the recording does not clearly discern the physical struggle.

Attempts to Contact Civilians

On May 6, 2014, the investigator tried to reach § 87(2)(b) for the second time, but the contact number proved to be incorrect. The investigator called § 87(2)(b) and § 87(2)(b) four times between April 24, 2014, and May 15, 2014, to request that § 87(2)(b) get into contact with the investigator to provide a statement. However, no contact was ever made. Three please call letters were mailed between November 19 and December 2, 2014 to § 87(2)(b). None of them have been returned to the CCRB by the United States Postal Service. On November 25, 2014, a search on Lexis Nexis revealed one potential phone number for § 87(2)(b). However when the investigator called this number, it was disconnected. On the same day, a search of the New York City Department of Correction Inmate Look-up Service revealed that § 87(2)(b) was not incarcerated. Finally, on December 2, 2014, searches on Whitepages.com and the New York State's Department of Motor Vehicles yielded negative results for § 87(2)(b).

Other Evidence

The investigator made numerous telephone calls to § 87(2)(b) requesting the video footage she allegedly took. § 87(2)(b) and § 87(2)(b) agreed, on three separate occasions, to bring the footage to the CCRB, but none was ever produced, and the investigator ultimately never acquired any video footage.

NYPD Statements:

Subject Officer: SGT. MARTIN MCBRIDE

- *Sgt. McBride was § 87(2)(b) old at the time of the incident. He is a white man who is 5'10" tall, weighs 195 pounds, and has brown hair and blue eyes.*
- *On the day of the incident, Sgt. McBride worked between the hours of 4:25 a.m. and 1 p.m. He was assigned to warrant enforcement with Det. Monserra Badillo, PO Michael LeClair, Det. Billy Acosta, Det. Jack Polimeni, and Det. Michael Swaine. He was dressed in plainclothes and driving in unmarked van number § 87(2)(e), § 87(2)(f).*

Memo Books

Sgt. McBride's memo book entries pertaining to this incident (enc. H-1 – H-2) state verbatim that "at 8:40 a.m., § 87(2)(b). At 9:30 a.m., arrest on warrant by Badillo."

CCRB Statement

Sgt. McBride was interviewed on September 22, 2014 (enc. H-3 – H-4).

On April 17, 2014, at around 9:30 a.m., Sgt. McBride arrived at § 87(2)(b) § 87(2)(b) in Manhattan to execute a warrant for parole violator § 87(2)(b) § 87(2)(b) had been convicted on charges of firing an assault weapon, and was therefore considered a serious offender. Sgt. McBride and his team first went to the § 87(2)(b) to find out exactly where § 87(2)(b) was located. The resident of a § 87(2)(b) apartment denied knowing anything, and did not recognize the photograph of § 87(2)(b) § 87(2)(b). Sgt. McBride had one of the officers check with the superintendent of the building. That officer reported back that the superintendent did not know either. Finally, Sgt. McBride knocked on the door of another § 87(2)(b) apartment, the resident of which confirmed that § 87(2)(b), and that § 87(2)(b) lived in the § 87(2)(b).

Sgt. McBride and his officers went outside and knocked on the entrance of the § 87(2)(b). There was no answer, but there was an open window right next to the entrance. Through the window, one could see a common area, and grey steel apartment door at the end of the common area. Sgt. McBride and another unidentified officer entered the common area through the open window and let other officers in that way. Sgt. McBride searched the common area, and found § 87(2)(b) hiding inside the boiler room. Sgt. McBride showed the § 87(2)(b) the search warrant, after which § 87(2)(b) who had initially been acting hostile, immediately calmed down.

Suddenly, without any precipitating action, the § 87(2)(b) door opened up, revealing § 87(2)(b) and § 87(2)(b) both of whom were identified via the investigation. Sgt. McBride recognized § 87(2)(b) as the latter's picture had been shown during the briefing for § 87(2)(b)'s warrant. When Sgt. McBride showed § 87(2)(b) the warrant, she stated that she did not know if § 87(2)(b) was inside the apartment. However, § 87(2)(b) shifted her eyes and tilted her head towards inside the apartment in a manner as to suggest that § 87(2)(b) was inside, but that she did not want to betray her family member.

§ 87(2)(b) let the officers in by opening the door and stepping aside. Once inside, Sgt. McBride searched the apartment for about thirty seconds before he heard an unidentified male voice say "Stop

resisting!” The voice was coming from one of the bedrooms. § 87(2)(b) and § 87(2)(b) all headed towards the bedroom, with the seeming intention of entering the room and interfering. Sgt. McBride therefore stood outside of the bedroom entrance, blocking their paths. He stood with his back facing the bedroom, and therefore did not see the struggle take place. He did however hear the interaction, during which time officers made numerous commands, including “stop resisting.” Sgt. McBride did not hear any officer use profanity with § 87(2)(b) nor did he hear § 87(2)(b) say anything during the struggle. He did not hear § 87(2)(b) complain of his breathing being restricted. § 87(2)(b) and § 87(2)(b) were upset at this time, and were videotaping the incident.

After less than two minutes, § 87(2)(b) was successfully handcuffed and led outside by two officers (Sgt. McBride could not remember who). § 87(2)(b) was not voluntarily walking, and had to be helped and escorted outside. He had originally been wearing baggy pants over his boxer shorts, with no shoes and no shirt, so Sgt. McBride asked his family members to please get some clothes. But the family members would not listen. Once outside though, Sgt. McBride recalled § 87(2)(b) having only his boxer shorts on afterwards. § 87(2)(b) was placed in a separate van from the one Sgt. McBride drove in. At the parole office, the officers noticed that § 87(2)(b) had a small cut on his foot. It was a very minor injury that had sparse bleeding and was less than half an inch in length. Emergency Medical Services were called and bandaged § 87(2)(b)'s foot injury. However § 87(2)(b) refused any further medical attention.

Subject Officer: DET. MONSERRA BADILLO

- *Det. Badillo was § 87(2)(b) old at the time of the incident. He is a Hispanic man who is 5'9" tall, weighs 210 pounds, and has black hair and brown eyes.*
- *On April 17, 2014, Det. Badillo worked between the hours of 4:27 a.m. and 1 p.m. He was assigned to warrant enforcement with Sgt. Martin McBride, Det. Jack Polimeri, and Det. Billy Acosta.*

Arrest Report

Det. Badillo stated verbatim for § 87(2)(b)'s arrest (enc.), no. § 87(2)(b), “at the place of occurrence the defendant does possess an active NYS parole warrant #§ 87(2)(b). Upon PD apprehension, the defendant did hide and resist arrest by violently refusing to place his arms behind his back in order to be handcuffed. Defendant treated by EMS and R.M.A. ACR #§ 87(2)(b). The defendant does also possess active warrant docket #§ 87(2)(b) and Yonkers PD Warrant #§ 87(2)(b)”

Memo Book

Det. Badillo's memo books regarding this incident (enc. D-1 – D-3) state verbatim that “at 9 a.m., at § 87(2)(b). AOW by Det. Badillo. At 10:05 a.m., at 314 W 40th St. re: arrest.”

CCRB Statement

Det. Badillo was interviewed at the CCRB on July 1, 2014 (enc. D-4 – D-6). § 87(2)(g)

On April 17, 2014, at around 9:30 a.m., Det. Badillo arrived at § 87(2)(b) in Manhattan. After speaking with a number of residents, a resident on the § 87(2)(b) stated that § 87(2)(b) lived in the § 87(2)(b)”.

Det. Badillo and his team went to the § 87(2)(b), which is outside, and knocked. A male voice responded that he “hates police officers,” and refused to open the door. There was a window right next to the § 87(2)(b) which looked dilapidated. Det. Badillo and his team removed the window and climbed through it, into § 87(2)(b). Sgt. McBride discovered § 87(2)(b) hiding in the boiler room, information that was later verbally relayed to Det. Badillo.

The § 87(2)(b) door was actually already opened by § 87(2)(b). Det. Badillo showed her the arrest warrant, and she stated that it was her son but he was not in at the moment. She

stated that the officers could look for themselves and gestured them inside. Det. Badillo and PO LeClair went inside the apartment and performed a cursory search but did not find § 87(2)(b) § 87(2)(b) § 87(2)(b)'s second son, was present, and was standing with § 87(2)(b) Det. Badillo then discovered that one of the rooms was locked. He requested the door be unlocked, but when § 87(2)(b) refused, Det. Badillo kicked it down. Although they initially did not see § 87(2)(b) the officers soon found him hiding between the bed and a wall, with the bed sheet covering the gap.

When Det. Badillo and PO LeClair went to grab § 87(2)(b) the latter started yelling, and put up a significant struggle by flailing his arms and kicking his legs. Det. Badillo grabbed § 87(2)(b)'s arms and torso to pull him onto the floor. He did not observe § 87(2)(b) ever strike his head or hit any part of his body on any object when being brought onto the floor. § 87(2)(b) continued to struggle but Det. Badillo and PO LeClair were able to quickly place him into handcuffs. Neither he nor PO LeClair put their hands around § 87(2)(b)'s neck to restrict his breathing. Neither of them punched § 87(2)(b) nor put their knees on his back. Det. Badillo stated that he may have used profanity in trying to gain § 87(2)(b)'s cooperation, but could not recall ever using any during the incident. § 87(2)(b) sustained a scrape to his foot from the incident, and Det. Badillo did not know from what. Det. Badillo could not recall if PO LeClair ever used any profanity during the incident.

§ 87(2)(b) and § 87(2)(b) were both standing by the door to the bedroom, screaming and yelling, holding their cameras to record the incident. Neither of them however interfered with the arrest as Sgt. McBride was dealing with both of them

Once he was handcuffed, § 87(2)(b) continued to be uncooperative. He would not walk out of the apartment by himself, and Det. Badillo and PO LeClair had to hold him by the underarms and carry him outside. § 87(2)(b) was placed inside a van with Det. Badillo, Sgt. McBride, Det. Acosta, and Det. Polimeni. Det. Badillo was able to calm § 87(2)(b) down by explaining to him the procedure for his parole violation, and § 87(2)(b) was quiet after that. Det. Badillo did not punch § 87(2)(b) in the face, nor did he say "shut the fuck up, I should've fucking killed you." § 87(2)(b) was brought to the parole office where Emergency Medical Services were called to deal with § 87(2)(b)'s foot injury.

Subject Officer: PO MICHAEL LECLAIR

- PO LeClair was § 87(2)(b) old at the time of the incident. He is a white man who is 5'11" tall, weighs 210 pounds. He is bald and has hazel eyes.
- On April 17, 2014, PO LeClair worked between the hours of 4:27 a.m. and 1 p.m. He was assigned to execute warrants with Det. Badillo, Sgt. McBride, and Det. Polimeni, was in uniform, and driving in unmarked patrol vehicle number § 87(2)(e), § 87(2)(f).

Memo Book

PO LeClair's memo book entries for this incident (enc. E-1 – E-3) state verbatim that "at 8:35 a.m., § 87(2)(b) At 9:30, AOW – deft did hide and resist arrest. Family harbored him inside apt. and lied to PD – Father hid as well. At 10:05 a.m., RTC/62A/EMS on scene – deft R.M.A. – online & 61."

CCRB Statement

PO LeClair was interviewed at the CCRB on July 10, 2014 (enc. E-4 – E-6). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

At the place of occurrence, Sgt. McBride authorized PO LeClair and Det. Badillo to break down the door. Once inside the room, § 87(2)(b) could not be seen initially, but PO LeClair quickly discovered him on the foot of the bed, near the wall, underneath his sheets. He and Det. Badillo commanded § 87(2)(b) to get off the bed but the latter did not comply. PO LeClair pulled on § 87(2)(b)'s arm a few times to get him off the bed. At this time, Det. Polimeni was also inside the bedroom

trying to subdue § 87(2)(b) who had clenched up his body and his hands into fists, and then flailed his arms and kicked his legs as the officers tried to subdue him. The struggle led § 87(2)(b) and all the officers to land on the floor. How § 87(2)(b) specifically got to the floor PO LeClair could not recall. Once on the floor, PO LeClair punched § 87(2)(b) in the hip area to try and gain control as § 87(2)(b) was still fighting. He denied placing his knee on § 87(2)(b)'s back, but admitted that it would have been necessary given § 87(2)(b)'s fighting demeanor. He denied having his hands on § 87(2)(b)'s neck, and did not see either Det. Badillo or Det. Polimeni do so.

§ 87(2)(b) remained hostile after he was handcuffed. At this point, § 87(2)(b) was screaming, and he would not voluntarily exit the apartment. PO LeClair did not escort § 87(2)(b) out and was not in the same transport vehicle either. Det. Badillo however was the officer who transported § 87(2)(b) to the stationhouse. PO LeClair remembered § 87(2)(b) and § 87(2)(b) being very hostile, and screaming at the officers during the incident.

Witness Officer: DET. BILLY ACOSTA

- Det. Acosta was § 87(2)(b) old at the time of the incident. He is a Hispanic man who is 6' tall, weighs 240 pounds, and is bald with brown eyes.
- On the day of the incident, Det. Acosta worked between the hours of 4:27 a.m. and 1 p.m. He was assigned to the warrant execution team with Sgt. Martin McBride, Det. Monserra Badillo, PO Jack Polimeni, and PO Michael LeClair. He was dressed in plainclothes, and driving in unmarked van number § 87(2)(e), § 87(2)(f).

Memo Book

Det. Acosta's memo book entries pertaining to this incident (enc. G-3 – G-4) state verbatim that “at 8:45 a.m., § 87(2)(b) At 9:30 a.m., arrest on warrant #§ 87(2)(b) At 10:05 a.m., arrived at 314 West 40th serving and arrest processing.”

CCRB Statement

Det. Acosta was interviewed at the CCRB on September 19, 2014 (enc. G-1 – G-2). § 87(2)(g)

At the place of occurrence, § 87(2)(b) was apparently hiding beneath blankets and refused to get out. Det. Badillo and PO LeClair jointly issued at least seven commands for § 87(2)(b) to get up, all of which were ignored. Finally, Det. Badillo, PO LeClair, and Det. Acosta grabbed § 87(2)(b) by the arms and legs, and pulled him onto the floor. § 87(2)(b) became combative and started flailing his arms and kicking his legs.

§ 87(2)(b) landed face down on the floor, and did not hit any part of his body from doing so. The officers never put their hands around § 87(2)(b)'s neck, and § 87(2)(b) never complained about his breathing being restricted. None of the officers kicked or punched § 87(2)(b). After being handcuffed, § 87(2)(b) voluntarily walked with the officers to the patrol vehicle outside. Det. Acosta sat in the unmarked van with § 87(2)(b). There were no problems during transport, and Det. Badillo never said anything to § 87(2)(b) and never punched him.

Witness Officer: DET. JACK POLIMENI

- Det. Polimeni was § 87(2)(b) old at the time of the incident. He is a white man who is 5'6" tall, weighs 225 pounds, and has brown eyes and brown hair.
- On the date of the incident, Det. Polimeni worked between the hours of 4:27 a.m. and 1 p.m. He was assigned to Parole Warrants with Sgt. Martin McBride, Det. Monserra Badillo, Det. Billy Acosta, Det. Christopher Swain, and PO Michael LeClair.

Memo Book

Det. Polimeni's memo book entries pertaining to this incident (enc. F- 1 – F-3) state verbatim that “at 8:35 a.m., at § 87(2)(b). At 9:30 a.m., AOW # § 87(2)(b) At 10:05 a.m., at 314 W 40 St serving arrest processing.”

CCRB Statement

Det. Polimeni was interviewed at the CCRB on August 15, 2014 (enc. F-4 – F-6). § 87(2)(g)

On April 17, 2014, at around 9:30 a.m., Det. Polimeni arrived at § 87(2)(b) in Manhattan. After Sgt. McBride discovered § 87(2)(b) inside the boiler room, Det. Polimeni heard commotion, and people shouting “stop resisting.” In a very small bedroom, Det. Polimeni found officers struggling with § 87(2)(b) who had just been brought onto the floor, and was lying chest-side down. Sgt. McBride stood outside the bedroom, keeping § 87(2)(b) and § 87(2)(b) who were all yelling and cursing, away from the struggle. Det. Polimeni went to § 87(2)(b)'s right side, and grabbed his right arm for apprehension.

§ 87(2)(b) was resisting by keeping his arms underneath him and kicking his legs. None of the officers had their knees on § 87(2)(b) or had their hands around § 87(2)(b)'s neck. No officer ever punched § 87(2)(b) or used any profanity, specifically never saying “shut the fuck up.” § 87(2)(b) did not complain of his breathing being restricted, nor did he ever say “I can't breathe.”

Det. Polimeni did not escort § 87(2)(b) outside but observed that the officers had to carry § 87(2)(b) out because the latter refused to walk and was tensing up. Det. Polimeni was in the patrol vehicle with § 87(2)(b) and recalled there being no problems with transport. No one said much during the ride, and Det. Badillo specifically did not say “I should've fucking killed you.”

Medical Records

Ambulance Call Report

EMT § 87(2)(b) stated verbatim § 87(2)(b) male found sitting on the bench in the PD parole/probation office with PD officer badge #23485 on scene. PD stated the patient was hiding himself inside his apartment while they were out looking for him.” § 87(2)(b) was otherwise normal except for a “minor soft tissue injury on his right foot,” and possible redness on patient's right shoulder. He was not bleeding from anywhere, and denied falling or any other type of trauma. He refused medical attention, and signed the corresponding form, which is witnessed by PO LeClair. (enc. MR-2)

NYPD Documents

Warrant # § 87(2)(b)

This warrant was issued on § 87(2)(b) (enc. I-1 – I-10), with regards to § 87(2)(b) who is listed as having been charged with § 87(2)(b). The warrant was executed on April 17, 2014, during which time it was noted that parolee “was hiding in between the bed and the wall in his room covered with sheets. His step father § 87(2)(b) was also hiding in the boiler room. His brother § 87(2)(b) his mother § 87(2)(b) and the step father § 87(2)(b) all lied that the parolee was not *[sic]* home.”

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- On November 19, 2014, the investigator inquired as to whether § 87(2)(b) or § 87(2)(b) filed a notice of claim with the City of New York regarding this incident. A response has yet to be received.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

-
- | Response | Percentage |
|-----------------------------|------------|
| U.S. should take action | 85% |
| U.S. should not take action | 15% |

Civilians CCRB History

- This is the first CCRB complaint regarding § 87(2)(b) (enc. A-3).
- This is the first CCRB complaint regarding § 87(2)(b) (enc. A-4).
- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-5).

Subject Officers CCRB History

- Det. Monserra Badillo has been a member of the service for 22 years and there are no substantiated CCRB allegations against him (enc. A-1).
- Sgt. Martin McBride has been a member of the service for 28 years and there are no substantiated CCRB allegations against him (enc. A-2).

Conclusion

Identification of Subject Officers

Det. Monserra Badillo, PO Michael LeClair, and Sgt. Martin McBride confirmed their interaction with § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) described the officer who allegedly threatened him with force, spoke rudely to him, held him in a chokehold, and punched him in the neck, as 6'2" tall, big, and Mexican-looking with a low haircut. The only Hispanic officers at the incident were Det. Badillo and Det. Acosta, but Det. Acosta has no hair, and only came into the bedroom after Det. Badillo and PO LeClair had issued § 87(2)(b) a number of commands. § 87(2)(b) stated that the subject officer was one of the first officers to enter his bedroom and speak with him. § 87(2)(g)

Only PO LeClair admitted to punching § 87(2)(b) All of the other officers interviews denied ever doing so. § 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

Because Det. Badillo possessed an arrest warrant, he was required to display the warrant only to the arrestee unless officers were entering a 3rd party residence. § 87(2)(b) lived at § 87(2)(b) in Manhattan. § 87(2)(g) 1 Barry Kamins, New York Search & Seizures § 3.04[1] (Matthew Bender, Rev. Ed.) (enc. AB-1 – AB-3)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority – Sgt. Martin McBride supervised the entry and search of

§ 87(2)(b) in Manhattan.

“When executing an arrest warrant, an officer may enter any premises, including the defendant’s dwelling, in which he reasonably believes the defendant is present.” N.Y. C.P.L. Law § 120.80 (enc. AC-7)

As per § 87(2)(b) s own admission, he lives at § 87(2)(b) in Manhattan.

When Sgt. McBride arrived at the location, he began by conversing with some residents of the first floor. One of them recognized § 87(2)(b) and confirmed his residence in the basement, which is § 87(2)(b) § 87(2)(g)

Allegation B: Discourtesy – Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that Det. Badillo used to word “fuck” towards him during the incident.

§ 87(2)(g)

Det. Badillo admitted that he may have used profanity to gain § 87(2)(b) s cooperation, but could not remember using any during the incident.

§ 87(2)(g)

Allegation C: Abuse of Authority – Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo threatened § 87(2)(b) with the use of force.

Allegation D: Force – Inside § 87(2)(b) in Manhattan, Det. Monserra Badillo used a chokehold against § 87(2)(b)

§ 87(2)(b) alleged that as he was being pulled from the bed, Det. Badillo stated “You fucking bastard, I should kill your fucking ass.” After he was on the ground, he felt Det. Badillo choke him, restricting his breathing, for about a minute. § 87(2)(b) stated “I can’t breathe,” to which Det. Badillo replied “Shut the fuck up.”

§ 87(2)(g)

§ 87(2)(g)

Allegation G: Discourtesy – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo spoke rudely to § 87(2)(b)

Allegation H: Abuse of Authority – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that while inside the patrol vehicle, Det. Badillo told him “shut the fuck up, I should’ve fucking killed you.” There were no other civilians in the car.

Det. Badillo denied both allegations, and Det. Acosta, and PO LeCLair, who were also in the patrol vehicle, corroborated his statement.

§ 87(2)(g)

Allegation I: Force – En route to 314 West 40th Street in Manhattan, Det. Monserra Badillo used physical force against § 87(2)(b)

§ 87(2)(b) also alleged that during transport, Det. Badillo punched him in the neck.

Det. Badillo again denied this allegation, and Det. Acosta and PO LeClair corroborated his statement.

§ 87(2)(g)

Allegation J: Abuse of Authority – At 314 West 40th Street in Manhattan, Det. Monserra Badillo dissuaded § 87(2)(b) from receiving medical treatment.

§ 87(2)(b) alleged that while Emergency Medical Technicians were looking at his foot and eyebrow injuries, Det. Badillo continually said that if § 87(2)(b) were to go to the hospital, the entire process would take much longer. Det. Badillo’s tone of voice came off as threatening to § 87(2)(b) which is why he refused medical attention.

Det. Badillo and the other officers were never asked to assess whether Det. Badillo came off as threatening to § 87(2)(b) at the parole office. § 87(2)(g)

It is undisputed, as per the Ambulance Call Report, that § 87(2)(b)’s injuries were exceptionally minor. § 87(2)(g)

§ 87(2)(g)

Investigator:	<u>Signature</u>	<u>Yanjiao Chen</u> Print	<u>Date</u>
Supervisor:	<u>Title/Signature</u>	<u>Print</u>	<u>Date</u>
Reviewer:	<u>Title/Signature</u>	<u>Print</u>	<u>Date</u>
Reviewer:	<u>Title/Signature</u>	<u>Print</u>	<u>Date</u>